

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Petition to Revoke
Probation Against:

Case No. 2007-001

OAH No. L-2009080458

JENNIFER JEAN MCKEE
1234 E "U" Avenue
Vicksburg, MI 49097

Registered Nurse License No. 697061

Respondent

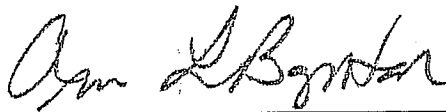
ORDER

IT IS SO ORDERED that Registered Nurse License No. 697061, heretofore issued to
Respondent Jennifer Jean McKee, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a
written motion requesting that the Decision be vacated and stating the grounds relied on within
seven (7) days after service of the Decision on Respondent. The agency in its discretion may
vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on 6/4/10.

It is so ORDERED 5/5/10



FOR THE BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS

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Attachment:

Exhibit A: Petition to Revoke Probation No. 2007-001

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**BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Petition to Revoke
Probation Against:

JENNIFER JEAN MCKEE
1234 E "U" Avenue
Vicksburg, MI 49097

Registered Nurse License No. 697061

RESPONDENT

Case No. 2007-001

OAH No. L-2009080458

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about December 24, 2008, Complainant Louise R. Bailey, M.Ed.,RN, in her official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department of Consumer Affairs, filed Petition to Revoke Probation No. 2007-001 against Jennifer Jean McKee (Respondent) before the Board of Registered Nursing.

2. On or about February 9, 2007, the Board of Registered Nursing (Board) issued Registered Nurse License No. 697061 to Respondent. The Registered Nurse License was in full force and effect at all times relevant to the charges brought herein and will expire on April 30, 2010, unless renewed.

3. On or about January 13, 2009, Rita Cruz, an employee of the Department of Justice, served by Certified and First Class Mail a copy of the Petition to Revoke Probation No. 2007-001, Statement to Respondent, Notice of Defense, Request for Discovery, and Government Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record with the Board, which was and is: 1234 E "U" Avenue, Vicksburg, MI 49097.

A copy of the Petition to Revoke Probation is attached as Exhibit A, and is incorporated herein by reference.

4. Service of the Petition to Revoke Probation was effective as a matter of law under the

1 provisions of Government Code section 11505, subdivision (c).

2 5. On or about January 23 , 2009, Respondent signed and returned a Notice of Defense,
3 requesting a hearing in this matter. A Notice of Hearing was served by mail at Respondent's
4 address of record and it informed her than an administrative hearing in this matter was scheduled
5 for January 19, 2010. Respondent failed to appear at that hearing.

6 6. Government Code section 11506 states, in pertinent part:

7 (c) The respondent shall be entitled to a hearing on the merits if the respondent files a
8 notice of defense, and the notice shall be deemed a specific denial of all parts of the accusation
9 not expressly admitted. Failure to file a notice of defense shall constitute a waiver of respondent's
10 right to a hearing, but the agency in its discretion may nevertheless grant a hearing.

11 7. California Government Code section 11520 states, in pertinent part:

12 (a) If the respondent either fails to file a notice of defense or to appear at the hearing, the
13 agency may take action based upon the respondent's express admissions or upon other evidence
14 and affidavits may be used as evidence without any notice to respondent.

15 8. Pursuant to its authority under Government Code section 11520, the Board finds
16 Respondent is in default. The Board will take action without further hearing and, based on the
17 evidence on file herein, finds that the allegations in Petition to Revoke Probation No. 2007-001
18 are true.

19 DETERMINATION OF ISSUES

20 1. Based on the foregoing findings of fact, Respondent Jennifer Jean McKee has
21 subjected her Registered Nurse License No. 697061, to discipline.

22 2. A copy of the Petition to Revoke Probation is attached.

23 3. The agency has jurisdiction to adjudicate this case by default.

24 4. The Board of Registered Nursing is authorized to revoke Respondent's Registered
25 Nurse License based upon the following violations alleged in the Petition to Revoke Probation:

26 a. Violation of Condition of Probation No. 2 - Comply with the Board's Probation
27 Program

28 b. Violation of Condition of Probation No. 14 - Physical examination

- 1 c. Violation of Condition of Probation No. 15 - Participation in treatment/rehabilitation
2 program for chemical dependence
3 d. Violation of Condition of Probation No. 17 - Submit to tests and samples
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Exhibit A

Petition to Revoke Probation No. 2007-001

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 MARC D. GREENBAUM
Supervising Deputy Attorney General
3 JENNIFER S. CADY, State Bar No. 100437
Deputy Attorney General
4 300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
5 Telephone: (213) 897-2442
Facsimile: (213) 897-2804

6 Attorneys for Complainant

7
8 **BEFORE THE**
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
9 **STATE OF CALIFORNIA**

10 In the Matter of the Petition to Revoke Probation
11 Against:

Case No. 2007-001

12 JENNIFER JEAN MCKEE
1234 East "U" Avenue
13 Vicksburg, MI 49097

**PETITION TO REVOKE
PROBATION**

14 Registered Nursing License No. 697061

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Petition to
20 Revoke Probation solely in her official capacity as the Executive Officer of the Board of
21 Registered Nursing, Department of Consumer Affairs.

22 2. On or about February 9, 2007, the Board of Registered Nursing issued
23 Registered Nursing License Number 697061 to Jennifer Jean McKee (Respondent). The
24 Registered Nursing License was in effect at all times relevant to the charges brought herein and
25 will expire on April 30, 2010, unless renewed.

26 3. In a disciplinary action entitled "In the Matter of Statement of Issues
27 Against Jennifer Jean McKee," Case No. 2007-01, the Board of Registered Nursing, issued a
28 decision, effective February 9, 2007, in which Respondent's Registered Nursing License was

1 revoked. However, the revocation was stayed and Respondent's was placed on probation for a
2 period of three (3) years with certain terms and conditions. A copy of that decision is attached as
3 Exhibit A and is incorporated by reference.

4 JURISDICTION

5 4. This Petition to Revoke Probation is brought before the Board of
6 Registered Nursing (Board), Department of Consumer Affairs, under the authority of the
7 following laws. All section references are to the Business and Professions Code unless otherwise
8 indicated.

9 5. Section 2750 of the Business and Professions Code ("Code") provides, in
10 pertinent part, that the Board may discipline any licensee, including a licensee holding a
11 temporary or an inactive license, for any reason provided in Article 3 (commencing with section
12 2750) of the Nursing Practice Act.

13 6. Section 2764 of the Code provides, in pertinent part, that the expiration of
14 a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding
15 against the licensee or to render a decision imposing discipline on the license.

16 7. Section 118, subdivision (b), of the Code provides that the suspension,
17 expiration, surrender, or cancellation of a license shall not deprive the Board of jurisdiction to
18 proceed with a disciplinary action during the period within which the license may be renewed,
19 restored, reissued or reinstated.

20 8. Section 125.3 of the Code provides, in pertinent part, that the Board may
21 request the administrative law judge to direct a licentiate found to have committed a violation or
22 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
23 and enforcement of the case.

24 FIRST CAUSE TO REVOKE PROBATION

25 (Failure to Comply with the Board's Probation Program)

26 9. At all times after the effective date of Respondent's probation, Condition
27 Term No. 2 stated:

28 "Respondent shall fully comply with the conditions of the Probation Program

1 established by the Board and cooperate with representatives of the Board in its
2 monitoring and investigation of the Respondent's compliance with the Board's
3 Probation Program, . . ."

4 10. Respondent's probation is subject to revocation because she failed to
5 comply with Probation Condition Term No. 2, requiring her, as referenced above, to comply with
6 conditions set forth in her probation. The facts and circumstances regarding this violation are as
7 follows:

8 A. On or about August 30, 2007, December 17, 2007, and May 27,
9 2008, Respondent tested positive for alcohol in violation of Condition No. 15 of her probation
10 that she "completely abstain" from the consumption of alcohol.

11 B. On or about April 8, 2008, Respondent was notified by the Board
12 that it was determined, following a mental health examination by a license mental health
13 practitioner, that she was unable to safely practice as a registered nurse, in violation of Probation
14 Condition No. 17. The Board notified Respondent that she should immediately cease practice as
15 a registered nurse.

16 C. On or about April 30, 2008, Respondent was notified that, as a
17 condition of resuming practice as a registered nurse, she was required to enter into and complete
18 a 30 day treatment program addressing mental health and chemical dependency issues.
19 Respondent failed to enter into such a program and failed to provide reports on the program in
20 violation of Probation Condition No. 14.

21 **SECOND CAUSE TO REVOKE PROBATION**

22 **(Failure to Participate in Treatment / Rehabilitation Program for Chemical Dependence)**

23 11. At all times after the effective date of Respondent's probation, Condition
24 14 stated:

25 "Respondent, at her expense, shall successfully complete during the probationary
26 period or shall have successfully completed prior to commencement of probation
27 a Board approved treatment / rehabilitation program of at least six months
28 duration. As required, reports shall be submitted by the program on forms.

provided by the Board. If Respondent has not completed a Board approved treatment/rehabilitation program prior to commencement of probation, Respondent, within 45 days from the effective date of the decision, shall be enrolled in a program. If a program is not successfully completed within the first nine months of probation, the Board shall consider Respondent in violation of probation.

Based on Board recommendation, each week Respondent shall be required to attend at least one, but no more than five 12-step recovery meetings or equivalent . . . and a nurse support group as approved and directed by the Board. If a nurse support group is not available, an additional 12-step meeting or equivalent shall be added. Respondent shall submit dated and signed documentation confirming such attendance to the Board during the entire period of probation. Respondent shall continue with the recovery plan recommended by the treatment/rehabilitation program or a licensed mental health examiner and/or other ongoing recovery groups."

12. Respondent's probation is subject to revocation because she failed to comply with Probation Condition 14, as more fully set forth above in paragraph 10.

THIRD CAUSE TO REVOKE PROBATION

(Failure to Abstain from use of Psychotropic Drugs and Alcohol)

13. At all times after the effective date of Respondent's probation, Condition 15 stated:

"Respondent shall completely abstain from the possession, injection or consumption by any route of all controlled substances and all psychotropic (mood altering) drugs, including alcohol, except when the same are ordered by a health care professional legally authorized to do so as part of documented medical treatment. . . ."

14. Respondent's probation is subject to revocation because she failed to comply with Probation Condition 15, as more fully set forth above in paragraph 10.

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1 3 month first offender alcohol and drug education and counseling course. The record of the
2 criminal proceeding is incorporated as if fully set forth.

3 PRAYER

4 WHEREFORE, Complainant requests that a hearing be held on the matters herein
5 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

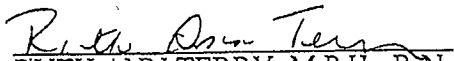
6 1. Revoking the probation that was granted by the Board of Registered
7 Nursing in Case No. 2007-01 and imposing the disciplinary order that was stayed thereby
8 revoking Registered Nursing License No. 697061 issued to Jennifer Jean McKee;

9 2. Revoking or suspending Registered Nursing License No. 697061, issued to
10 Jennifer Jean McKee;

11 3. Ordering Jennifer Jean McKee to pay the Board the reasonable costs of the
12 investigation and enforcement of this case, pursuant to Business and Professions Code section
13 125.3;

14 4. Taking such other and further action as deemed necessary and proper.

15
16 DATED: 12/24/08

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19 RUTH ANN TERRY, M.P.H., R.N.
20 Executive Officer
21 Board of Registered Nursing
22 Department of Consumer Affairs
23 State of California
24 Complainant

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Exhibit A

Decision and Order

Board of Registered Nursing Case No. 2007-001

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Statement of Issues
Against:

JENNIFER JEAN MCKEE
1343 San Bernardino Road #49
Covina, CA 91722

Respondent.

Case No. 2007-001

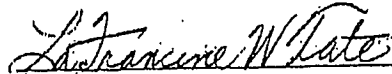
OAH No. 2006080401

DECISION

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Board of Registered Nursing as its Decision in the above-entitled matter.

This Decision shall become effective on February 9, 2007.

IT IS SO ORDERED January 9, 2007.



Vice-President
Board of Registered Nursing
Department of Consumer Affairs
State of California

1 BILL LOCKYER, Attorney General
2 of the State of California
3 BRIAN G. WALSH, State Bar No. 207621
4 Deputy Attorney General
5 California Department of Justice
6 300 So. Spring Street, Suite 1702
7 Los Angeles, CA 90013
8 Telephone: (213) 897-2535
9 Facsimile: (213) 897-2804

10 Attorneys for Complainant

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BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Statement of Issues Against:

JENNIFER JEAN MCKEE

4045 Morada Avenue
Covina CA 91722-3918

Respondent.

Case No. 2007-001

OAH No. 2006080401

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

In the interest of a prompt and speedy settlement of this matter, consistent with the public interest and the responsibility of the Board of Registered Nursing of the Department of Consumer Affairs, the parties hereby agree to the following Stipulated Settlement and Disciplinary Order, which will be submitted to the Board for approval and adoption as the final disposition of the Statement of Issues.

PARTIES

1. Ruth Ann Terry, M.P.H., R.N. (Complainant) is the Executive Officer of the Board of Registered Nursing. She brought this action solely in her official capacity and is represented in this matter by Bill Lockyer, Attorney General of the State of California, by Brian G. Walsh, Deputy Attorney General.

2. Respondent Jennifer Jean McKee (Respondent) is representing herself in this proceeding and has chosen not to exercise her right to be represented by counsel.

3. On or about April 14, 2004, Respondent filed an application dated February 25, 2004, with the Board of Registered Nursing to obtain a Registered Nurse's license.

JURISDICTION

4. Statement of Issues No. 2007-001 was filed before the Board of Registered Nursing (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Statement of Issues and all other statutorily required documents were properly served on Respondent on August 8, 2006. Respondent timely filed her Notice of Defense contesting the Statement of Issues. A copy of Statement of Issues No. 2007-001 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, and understands the charges and allegations in Statement of Issues No. 2007-001. Respondent has also carefully read, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the Statement of Issues; the right to be represented by counsel at her own expense; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

8. Respondent admits the truth of each and every charge and allegation in Statement of Issues No. 2007-001.

9. Respondent agrees that her application for a Registered Nursing License is subject to denial and she agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

CONTINGENCY

10. This stipulation shall be subject to approval by the Board of Registered Nursing. Respondent understands and agrees that counsel for Complainant and the staff of the Board of Registered Nursing may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent. By signing the stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties; and the Board shall not be disqualified from further action by having considered this matter.

11. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

12. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

The application of Respondent Jennifer Jean McKee for licensure is hereby granted and a license shall be issued to Respondent upon successful completion of all licensing requirements. Said license shall immediately be revoked, the order of revocation stayed and Respondent placed on probation for a period of three (3) years on the following conditions:

Severability Clause. Each condition of probation contained herein is a separate and distinct condition. If any condition of this Order, or any application thereof, is declared unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other

1 applications thereof, shall not be affected. Each condition of this Order shall separately be valid
2 and enforceable to the fullest extent permitted by law.

3 **1. Obey All Laws.** Respondent shall obey all federal, state and local laws.
4 A full and detailed account of any and all violations of law shall be reported by Respondent to
5 the Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of
6 compliance with this condition, Respondent shall submit completed fingerprint forms and
7 fingerprint fees within 45 days of the effective date of the decision, unless previously submitted
8 as part of the licensure application process.

9 **Criminal Court Orders:** If Respondent is under criminal court orders, including
10 probation or parole, and the order is violated, this shall be deemed a violation of these probation
11 conditions, and may result in the filing of an accusation and/or petition to revoke probation.

12 **2. Comply with the Board's Probation Program.** Respondent shall fully
13 comply with the conditions of the Probation Program established by the Board and cooperate
14 with representatives of the Board in its monitoring and investigation of the Respondent's
15 compliance with the Board's Probation Program. Respondent shall inform the Board in writing
16 within no more than 15 days of any address change and shall at all times maintain an active,
17 current license status with the Board, including during any period of suspension.

18 Upon successful completion of probation, Respondent's license shall be fully
19 restored.

20 **3. Report in Person.** Respondent, during the period of probation, shall
21 appear in person at interviews/meetings as directed by the Board or its designated
22 representatives.

23 **4. Residency, Practice, or Licensure Outside of State.** Periods of
24 residency or practice as a registered nurse outside of California shall not apply toward a reduction
25 of this probation time period. Respondent's probation is tolled if and when she resides outside of
26 California. Respondent must provide written notice to the Board within 15 days of any change of
27 residency or practice outside the state, and within 30 days prior to re-establishing residency or
28 returning to practice in this state.

1 Respondent shall provide a list of all states and territories where she has ever been
2 licensed as a registered nurse, vocational nurse, or practical nurse. Respondent shall further
3 provide information regarding the status of each license and any changes in such license status
4 during the term of probation. Respondent shall inform the Board if she applies for or obtains a
5 new nursing license during the term of probation.

6 5. **Submit Written Reports.** Respondent, during the period of probation,
7 shall submit or cause to be submitted such written reports/declarations and verification of actions
8 under penalty of perjury, as required by the Board. These reports/declarations shall contain
9 statements relative to Respondent's compliance with all the conditions of the Board's Probation
10 Program. Respondent shall immediately execute all release of information forms as may be
11 required by the Board or its representatives.

12 Respondent shall provide a copy of this Decision to the nursing regulatory agency
13 in every state and territory in which she has a registered nurse license.

14 6. **Function as a Registered Nurse.** Respondent, during the period of
15 probation, shall engage in the practice of registered nursing in California for a minimum of 24
16 hours per week for 6 consecutive months or as determined by the Board.

17 For purposes of compliance with the section, "engage in the practice of registered
18 nursing" may include, when approved by the Board, volunteer work as a registered nurse, or
19 work in any non-direct patient care position that requires licensure as a registered nurse.

20 The Board may require that advanced practice nurses engage in advanced practice
21 nursing for a minimum of 24 hours per week for 6 consecutive months or as determined by the
22 Board.

23 If Respondent has not complied with this condition during the probationary term,
24 and Respondent has presented sufficient documentation of her good faith efforts to comply with
25 this condition, and if no other conditions have been violated, the Board, in its discretion, may
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27
28

1 grant an extension of Respondent's probation period up to one year without further hearing in
2 order to comply with this condition. During the one year extension, all original conditions of
3 probation shall apply.

4 7. **Employment Approval and Reporting Requirements.** Respondent
5 shall obtain prior approval from the Board before commencing or continuing any employment,
6 paid or voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all
7 performance evaluations and other employment related reports as a registered nurse upon request
8 of the Board.

9 Respondent shall provide a copy of this Decision to her employer and immediate
10 supervisors prior to commencement of any nursing or other health care related employment.

11 In addition to the above, Respondent shall notify the Board in writing within
12 seventy-two (72) hours after she obtains any nursing or other health care related employment.
13 Respondent shall notify the Board in writing within seventy-two (72) hours after she is
14 terminated or separated; regardless of cause, from any nursing, or other health care related
15 employment with a full explanation of the circumstances surrounding the termination or
16 separation.

17 8. **Supervision.** Respondent shall obtain prior approval from the Board
18 regarding Respondent's level of supervision and/or collaboration before commencing or
19 continuing any employment as a registered nurse, or education and training that includes patient
20 care.

21 Respondent shall practice only under the direct supervision of a registered nurse
22 in good standing (no current discipline) with the Board of Registered Nursing, unless alternative
23 methods of supervision and/or collaboration (e.g., with an advanced practice nurse or physician)
24 are approved.

25 Respondent's level of supervision and/or collaboration may include, but is not
26 limited to the following:

27 (a) Maximum - The individual providing supervision and/or collaboration is
28 present in the patient care area or in any other work setting at all times.

1 (b) Moderate - The individual providing supervision and/or collaboration is in
2 the patient care unit or in any other work setting at least half the hours Respondent works.

3 (c) Minimum - The individual providing supervision and/or collaboration has
4 person-to-person communication with Respondent at least twice during each shift worked.

5 (d) Home Health Care - If Respondent is approved to work in the home health
6 care setting, the individual providing supervision and/or collaboration shall have person-to-
7 person communication with Respondent as required by the Board each work day. Respondent
8 shall maintain telephone or other telecommunication contact with the individual providing
9 supervision and/or collaboration as required by the Board during each work day. The individual
10 providing supervision and/or collaboration shall conduct, as required by the Board, periodic, on-
11 site visits to patients' homes visited by Respondent with or without Respondent present.

12 9. **Employment Limitations.** Respondent shall not work for a nurse's
13 registry, in any private duty position as a registered nurse, a temporary nurse placement agency, a
14 traveling nurse, or for an in-house nursing pool.

15 Respondent shall not work for a licensed home health agency as a visiting nurse
16 unless the registered nursing supervision and other protections for home visits have been
17 approved by the Board. Respondent shall not work in any other registered nursing occupation
18 where home visits are required.

19 Respondent shall not work in any health care setting as a supervisor of registered
20 nurses. The Board may additionally restrict Respondent from supervising licensed vocational
21 nurses and/or unlicensed assistive personnel on a case-by-case basis.

22 Respondent shall not work as a faculty member in an approved school of nursing
23 or as an instructor in a Board approved continuing education program.

24 Respondent shall work only on a regularly assigned, identified and predetermined
25 worksite(s) and shall not work in a float capacity.

26 If Respondent is working or intends to work in excess of 40 hours per week, the
27 Board may request documentation to determine whether there should be restrictions on the hours
28 of work.

1 10. **Complete a Nursing Course(s).** Respondent, at her own expense, shall
2 enroll and successfully complete a course(s) relevant to the practice of registered nursing no later
3 than six months prior to the end of her probationary term.

4 Respondent shall obtain prior approval from the Board before enrolling in the
5 course(s). Respondent shall submit to the Board the original transcripts or certificates of
6 completion for the above required course(s). The Board shall return the original documents to
7 Respondent after photocopying them for its records.

8 11. **Violation of Probation.** If Respondent violates the conditions of her
9 probation, the Board, after giving Respondent notice and an opportunity to be heard, may set
10 aside the stay order and impose the stayed discipline (revocation) of Respondent's license.

11 If during the period of probation, an accusation or petition to revoke probation has
12 been filed against Respondent's license or the Attorney General's Office has been requested to
13 prepare an accusation or petition to revoke probation against Respondent's license, the
14 probationary period shall automatically be extended and shall not expire until the accusation or
15 petition has been acted upon by the Board.

16 12. **License Surrender.** During Respondent's term of probation, if she ceases
17 practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of
18 probation, Respondent may surrender her license to the Board. The Board reserves the right to
19 evaluate Respondent's request and to exercise its discretion whether to grant the request, or to
20 take any other action deemed appropriate and reasonable under the circumstances, without
21 further hearing. Upon formal acceptance of the tendered license and wall certificate, Respondent
22 will no longer be subject to the conditions of probation.

23 Surrender of Respondent's license shall be considered a disciplinary action and
24 shall become a part of Respondent's license history with the Board. A registered nurse whose
25 license has been surrendered may petition the Board for reinstatement no sooner than the
26 following minimum periods from the effective date of the disciplinary decision:

27 (1) Two years for reinstatement of a license that was surrendered for any
28 reason other than a mental or physical illness; or

1 (2) One year for a license surrendered for a mental or physical illness.

2 13. **Physical Examination.** Within 45 days of the effective date of this
3 Decision, Respondent, at her expense, shall have a licensed physician, nurse practitioner, or
4 physician assistant, who is approved by the Board before the assessment is performed, submit an
5 assessment of the Respondent's physical condition and capability to perform the duties of a
6 registered nurse. Such an assessment shall be submitted in a format acceptable to the Board. If
7 medically determined, a recommended treatment program will be instituted and followed by the
8 Respondent with the physician, nurse practitioner, or physician assistant providing written
9 reports to the Board on forms provided by the Board.

10 If Respondent is determined to be unable to practice safely as a registered nurse,
11 the licensed physician, nurse practitioner, or physician assistant making this determination shall
12 immediately notify the Board and Respondent by telephone, and the Board shall request that the
13 Attorney General's office prepare an accusation or petition to revoke probation. Respondent
14 shall immediately cease practice and shall not resume practice until notified by the Board.
15 During this period of suspension, Respondent shall not engage in any practice for which a license
16 issued by the Board is required until the Board has notified Respondent that a medical
17 determination permits Respondent to resume practice. This period of suspension will not apply
18 to the reduction of this probationary time period.

19 If Respondent fails to have the above assessment submitted to the Board within
20 the 45-day requirement, Respondent shall immediately cease practice and shall not resume
21 practice until notified by the Board. This period of suspension will not apply to the reduction of
22 this probationary time period. The Board may waive or postpone this suspension only if
23 significant, documented evidence of mitigation is provided. Such evidence must establish good
24 faith efforts by Respondent to obtain the assessment, and a specific date for compliance must be
25 provided. Only one such waiver or extension may be permitted.

26 14. **Participate in Treatment/Rehabilitation Program for Chemical**
27 **Dependence.** Respondent, at her expense, shall successfully complete during the probationary
28 period or shall have successfully completed prior to commencement of probation a Board-

1 approved treatment/rehabilitation program of at least six months duration. As required, reports
2 shall be submitted by the program on forms provided by the Board. If Respondent has not
3 completed a Board-approved treatment/rehabilitation program prior to commencement of
4 probation, Respondent, within 45 days from the effective date of the decision, shall be enrolled in
5 a program. If a program is not successfully completed within the first nine months of probation,
6 the Board shall consider Respondent in violation of probation.

7 Based on Board recommendation, each week Respondent shall be required to
8 attend at least one, but no more than five 12-step recovery meetings or equivalent (e.g., Narcotics
9 Anonymous, Alcoholics Anonymous, etc.) and a nurse support group as approved and directed
10 by the Board. If a nurse support group is not available, an additional 12-step meeting or
11 equivalent shall be added. Respondent shall submit dated and signed documentation confirming
12 such attendance to the Board during the entire period of probation. Respondent shall continue
13 with the recovery plan recommended by the treatment/rehabilitation program or a licensed
14 mental health examiner and/or other ongoing recovery groups.

15 15. **Abstain from Use of Psychotropic (Mood-Altering) Drugs.** Respondent
16 shall completely abstain from the possession, injection or consumption by any route of all
17 controlled substances and all psychotropic (mood altering) drugs, including alcohol, except when
18 the same are ordered by a health care professional legally authorized to do so as part of
19 documented medical treatment. Respondent shall have sent to the Board, in writing and within
20 fourteen (14) days, by the prescribing health professional, a report identifying the medication,
21 dosage, the date the medication was prescribed, the Respondent's prognosis, the date the
22 medication will no longer be required, and the effect on the recovery plan, if appropriate.

23 Respondent shall identify for the Board a single physician, nurse practitioner or
24 physician assistant who shall be aware of Respondent's history of substance abuse and will
25 coordinate and monitor any prescriptions for Respondent for dangerous drugs, controlled
26 substances or mood-altering drugs. The coordinating physician, nurse practitioner, or physician
27

BOARD OF REGISTERED NURSING
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28

1 assistant shall report to the Board on a quarterly basis Respondent's compliance with this
2 condition. If any substances considered addictive have been prescribed, the report shall identify a
3 program for the time limited use of any such substances.

4 The Board may require the single coordinating physician, nurse practitioner, or
5 physician assistant to be a specialist in addictive medicine, or to consult with a specialist in
6 addictive medicine.

7 16. **Submit to Tests and Samples.** Respondent, at her expense, shall
8 participate in a random, biological fluid testing or a drug screening program which the Board
9 approves. The length of time and frequency will be subject to approval by the Board.
10 Respondent is responsible for keeping the Board informed of Respondent's current telephone
11 number at all times. Respondent shall also ensure that messages may be left at the telephone
12 number when she is not available and ensure that reports are submitted directly by the testing
13 agency to the Board, as directed. Any confirmed positive finding shall be reported immediately
14 to the Board by the program and Respondent shall be considered in violation of probation.

15 In addition, Respondent, at any time during the period of probation, shall fully
16 cooperate with the Board or any of its representatives, and shall, when requested, submit to such
17 tests and samples as the Board or its representatives may require for the detection of alcohol,
18 narcotics, hypnotics, dangerous drugs, or other controlled substances.

19 If Respondent has a positive drug screen for any substance not legally authorized
20 and not reported to the coordinating physician, nurse practitioner, or physician assistant, and the
21 Board files a petition to revoke probation or an accusation, the Board may suspend Respondent
22 from practice pending the final decision on the petition to revoke probation or the accusation.
23 This period of suspension will not apply to the reduction of this probationary time period.

24 If Respondent fails to participate in a random, biological fluid testing or drug
25 screening program within the specified time frame, Respondent shall immediately cease practice
26 and shall not resume practice until notified by the Board. After taking into account documented
27 evidence of mitigation, if the Board files a petition to revoke probation or an accusation, the
28 Board may suspend Respondent from practice pending the final decision on the petition to

1 revoke probation or the accusation. This period of suspension will not apply to the reduction of
2 this probationary time period.

3 17. **Mental Health Examination.** Respondent shall, within 45 days of the
4 effective date of this Decision, have a mental health examination including psychological testing
5 as appropriate to determine her capability to perform the duties of a registered nurse. The
6 examination will be performed by a psychiatrist, psychologist or other licensed mental health
7 practitioner approved by the Board. The examining mental health practitioner will submit a
8 written report of that assessment and recommendations to the Board. All costs are the
9 responsibility of Respondent. Recommendations for treatment, therapy or counseling made as a
10 result of the mental health examination will be instituted and followed by Respondent.

11 If Respondent is determined to be unable to practice safely as a registered nurse,
12 the licensed mental health care practitioner making this determination shall immediately notify
13 the Board and Respondent by telephone, and the Board shall request that the Attorney General's
14 office prepare an accusation or petition to revoke probation. Respondent shall immediately cease
15 practice and may not resume practice until notified by the Board. During this period of
16 suspension, Respondent shall not engage in any practice for which a license issued by the Board
17 is required, until the Board has notified Respondent that a mental health determination permits
18 Respondent to resume practice. This period of suspension will not apply to the reduction of this
19 probationary time period.

20 If Respondent fails to have the above assessment submitted to the Board within
21 the 45-day requirement, Respondent shall immediately cease practice and shall not resume
22 practice until notified by the Board. This period of suspension will not apply to the reduction of
23 this probationary time period. The Board may waive or postpone this suspension only if
24 significant, documented evidence of mitigation is provided.. Such evidence must establish good
25 faith efforts by Respondent to obtain the assessment, and a specific date for compliance must be
26 provided. Only one such waiver or extension may be permitted.

1 18. Therapy or Counseling Program. Respondent, at her expense, shall
2 participate in an on-going counseling program until such time as the Board releases her from this
3 requirement and only upon the recommendation of the counselor. Written progress reports from
4 the counselor will be required at various intervals.

5 ACCEPTANCE

6 I have carefully read the Stipulated Settlement and Disciplinary Order. I
7 understand the stipulation and the effect it will have on my Registered Nursing License. I enter
8 into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently,
9 and agree to be bound by the Decision and Order of the Board of Registered Nursing.

10 DATED: October 11, 2006

11 Jennifer Jean McKee
12 JENNIFER JEAN MCKEE
13 Respondent
14

15 ENDORSEMENT

16 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
17 submitted for consideration by the Board of Registered Nursing of the Department of Consumer
18 Affairs.
19

20 DATED October 4, 2006

21 BILL LOCKYER, Attorney General
22 of the State of California

23 Brian G. Walsh
24 BRIAN G. WALSH
25 Deputy Attorney General

26 Attorneys for Complainant

Exhibit A
Statement of Issues No. 2007-001

1 BILL LOCKYER, Attorney General
of the State of California.
2 BRIAN G. WALSH, State Bar No. 207621
Deputy Attorney General
3 California Department of Justice
300 So. Spring Street, Suite 1702
4 Los Angeles, CA 90013
Telephone: (213) 897-2535
5 Facsimile: (213) 897-2804
6 Attorneys for Complainant

7
8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

11 In the Matter of the Statement of Issues Against:

Case No. 2007-001

12 JENNIFER JEAN MCKEE
13 4045 Morada
Covina, CA 91722

STATEMENT OF ISSUES

14 Respondent.

15
16 Complainant alleges:

17 **PARTIES**

18 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Statement of
19 Issues solely in her official capacity as the Executive Officer of the Board of Registered Nursing,
20 Department of Consumer Affairs.

21 2. On or about April 14, 2004, the Board of Registered Nursing, Department
22 of Consumer Affairs received an application for Licensure by Endorsement for a registered
23 nursing license from Jennifer Jean McKee (Respondent). On or about February 25, 2004,
24 Jennifer Jean McKee certified under penalty of perjury to the truthfulness of all statements,
25 answers, and representations in the application. The Board denied the application on January 6,
26 2006.

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28 ///

JURISDICTION

3. This Statement of Issues is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

STATUTORY PROVISIONS

4. Section 2736 of the Business and Professions Code (Code) provides, in pertinent part, that the Board of Registered Nursing (Board) may deny a license when it finds that the applicant has committed any acts constituting grounds for denial of licensure under section 480 of that Code.

5. Section 480 of the Code states:

"(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

"(1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

....

"(3) Done any act which if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.

"The board may deny a license pursuant to this subdivision only if the crime or act is substantially related to the qualifications, functions or duties of the business or profession for which application is made.

"(b) Notwithstanding any other provision of this code, no person shall be denied a license solely on the basis that he has been convicted of a felony if he has obtained a certificate of rehabilitation under Section 4852.01 and following of the Penal Code or that he has been convicted of a misdemeanor if he has met all applicable requirements of the criteria of

1 rehabilitation developed by the board to evaluate the rehabilitation of a person when considering
2 the denial of a license under subdivision (a) of Section 482."

3 6. Section 2761 of the Code states:

4 "The board may take disciplinary action against a certified or licensed nurse or
5 deny an application for a certificate or license for any of the following:

6 "(a) Unprofessional conduct, which includes, but is not limited to, the following:

7 ...

8 "(f) Conviction of a felony or of any offense substantially related to the
9 qualifications, functions, and duties of a registered nurse, in which event the record of the
10 conviction shall be conclusive evidence thereof."

11 7. Section 2762, subdivision(b) provides, in pertinent part, that
12 unprofessional conduct specifically includes the use of any controlled substance "to the extent or
13 in a manner dangerous or injurious to himself or herself, any other person, or the public. . . ."

14 8. Health and Safety Code section 11170 states: "No person shall prescribe,
15 administer, or furnish a controlled substance for himself."

16 9. CONTROLLED SUBSTANCE

17 a. Benzodiazepine is a schedule IV controlled substance as defined in Health
18 and Safety Code section 11057(D) and is dangerous drug according to Code section 4022.

19 FIRST CAUSE FOR DENIAL OF APPLICATION

20 (Conviction of a Substantially Related Crime)

21 10. Respondent's application is subject to denial under section 480,
22 subdivision (a)(1) and 2761, subdivision (f) of the Code, on the grounds that Respondent was
23 convicted of a crime substantially related to the qualifications, functions and duties of a
24 registered nurse. The circumstances are as follows:

25 a. On or about March 10, 2004, Respondent was convicted by the
26 Court on a plea of guilty to one count of violating Vehicle Code section 23152(a), a
27 misdemeanor (driving under the influence of alcohol and/or drug) in the Superior Court of

28 ///

1 California, County of Los Angeles, Case No. 4JM01674, entitled *the People of the State of*
2 *California v. Jennifer McKee*.

3 b. The circumstances surrounding the conviction are that on or about January
4 6, 2004, Respondent was observed driving over planters in a market parking lot. The Covina
5 Police Department was called after Respondent drove to a convenience store in an unsafe
6 manner. During her interview with Respondent, the police officer determined that Respondent
7 was under the influence of narcotics and/or alcohol. Respondent submitted to a blood chemical
8 test. The results of the test were positive for benzodiazepines.

9 SECOND CAUSE FOR DENIAL OF APPLICATION

10 (Using a Controlled Substance in a Manner Dangerous to
11 Oneself, Other Persons and the Public)

12 11. Respondent's application is subject to denial under Code section 480,
13 subdivision (a)(3), section 2761, subdivision (a), and section 2762, subdivision (b), on the
14 grounds that Respondent used a controlled substance in a manner that was dangerous to herself,
15 others, and the public, as described more fully in paragraph 10b, above. The circumstances are
16 as follows:

17 a. The circumstances surrounding the conviction are that on or about
18 January 6, 2004, Respondent was observed driving over planters in a market parking lot. The
19 Covina Police Department was called after Respondent drove to a convenience store in an unsafe
20 manner. During his interview with Respondent, the police officer determined that Respondent
21 was under the influence of narcotics and/or alcohol. Respondent submitted to a blood chemical
22 test. The results of the test were positive for benzodiazepines.

23 THIRD CAUSE FOR DENIAL OF APPLICATION

24 (Administer a Controlled Substance to Oneself)

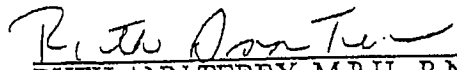
25 12. Respondent's application is subject to denial under section 480,
26 subdivision (a)(3), of the Code for violating Health and Safety code section 11170, in that
27 Respondent administered a controlled substance, benzodiazepine, to herself without a
28 prescription, as more fully set forth in paragraph 9, above.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Denying the application of Jennifer Jean McKee for a Registered Nursing;
2. Taking such other and further action as deemed necessary and proper.

DATED: 7/13/06


RUTH ANN TERRY, M.P.H., R.N.
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant